HONOURABLE SRI JUSTICE N.V.RAMANA

WRIT PETITION No. 16402 of 2007

DATED: 2-08-2007

Between:

M.Papaiah

…Petitioner

and

A.P.S.R.T.C, rep. by its Vice-Chairman and
Managing Director, Hyderabad and others

…Respondents.

HON'BLE SRI JUSTICE N.V.RAMANA

W.P.No. 16402 of 2007

ORAL ORDER:

The petitioner is working as Driver with the respondents-APSRTC. While discharging his duties as driver, the third respondent herein directed him to attend periodical medical examination. Accordingly, the petitioner attended the periodical medical examination. The Medical Officer, APSRTC, Tarnaka, Hyderabad vide Medical Certificate No. 6-110 dated 4.2.2006 declared the petitioner as medically unfit for the post of A-1 driver due to defective distance vision. The 3rd respondent vide his order dated 29-6-2007 retired the petitioner on medical grounds w.e.f 29-6-2007. Thereafter, on 29.6.2007, the petitioner made a representation to the authorities to provide alternative employment as per Section 47 of the Persons with Disabilities (Equal opportunities, protection of rights and full participation) Act 1 of 1995 (for short 'the Act'). Since no action is taken on the said representation and the respondents are not permitting him to attend the duties, he filed the present writ petition.

Learned counsel for petitioner submitted that in terms of Section 47 of the Act, the respondents are under an obligation to provide alternative employment and placed reliance on judgment of this Court in ***N.Siva Kumar Vs. APSRTC, Musheerabad and others***[1].

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC.

This Court in ***N.Siva Kumar***'s case considered similar issue and directed the authorities to consider the case of the employee in the

light of the provisions of the Act for alternative employment. The relevant portion reads as under;

> "Having regard to the fact that a right has been conferred upon the appellant herein under a statute, although the question raised herein has not been raised before the learned single Judge, we, in modification of the order passed by the learned single Judge, direct the appellant herein to file a representation, if not already filed, before the appropriate authority seeking the relief prayed for in this appeal, and on receipt of such a representation, the appropriate authority may consider the case of the appellant in the light of the aforementioned provisions and the decisions referred to hereinbefore, and pass an appropriate order at an early date, preferably within a period of four (4) weeks from the date of communication of this order."

In the present case, the representation dated 29.6.2007 made by the petitioner, seeking alternative employment as per Section 47 of the Persons with Disabilities (Equal opportunities, protection of rights and full participation) Act 1 of 1995 (for short 'the Act'), is said to be pending consideration before respondent No.2. Hence, I deem it appropriate to dispose of the writ petition directing respondent No.2 to consider the representation of the petitioner dated 29.6.2007 and pass appropriate speaking orders in accordance with law particularly in the light of Section 47 of the Act, as expeditiously as possible, preferably within a period of three months from the date of receipt of copy of this order.

With the above direction, the writ petition is disposed of. No costs.

N.V.RAMANA, J

2-08-2007

GRR

---

[1] 2001 (3) ALD 166 (DB)